

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF OKLAHOMA**

BRIAN HUFFER, individually and
on behalf of all others similarly
situated,

Plaintiff,

v.

SONIC CORP.,

Defendant.

Case No. 5:17-cv-01032-M

JURY TRIAL DEMANDED

**UNOPPOSED MOTION TO AMEND COMPLAINT
AND SUBSTITUTE PLAINTIFF**

COMES NOW Plaintiff Brian Huffer (“Huffer”), by and through his counsel of record, and, pursuant to FED. R. CIV. P. 15 and 21 and LOC. CIV. R. 7(k), respectfully requests leave to amend the Complaint and substitute another person, Caitlin Gilmore (“Gilmore”), as plaintiff and representative of the proposed class.

FACTUAL AND PROCEDURAL BACKGROUND

On September 26, 2017, Sonic announced that its payment system had been hacked and as many as five million credit/debit card accounts had been stolen. On September 27, 2017, the undersigned counsel filed a class action lawsuit against Sonic on behalf of Brian Huffer. *See Plaintiff’s Class Action Complaint*, Dkt. No. 1 (“the Complaint”). The Complaint has not yet been served. Accordingly, this motion is unopposed (there is no opposing party to object to the requested relief).

RELIEF REQUESTED

Rule 15 provides that leave to amend should be “freely” given. FED. R. CIV. P. 15(a). Rule 21 provides that parties may be dropped or added by order of the court “on just terms.” FED. R. CIV. P. 21. Here, the litigation has just commenced – the defendant has not even been served. Huffer and Gilmore request that Huffer be withdrawn and Gilmore substituted as plaintiff and representative of the proposed class. Permitting the substitution of one plaintiff who no longer wishes to serve for one who does is consistent with Rules 15 and 21. Accordingly, Huffer respectfully requests leave to amend the Complaint and substitute someone else, Gilmore, as plaintiff and representative of the proposed class.

Dated: October 2, 2017

Respectfully Submitted,

s/ Carin L. Marcussen

William B. Federman, OBA #2853
Carin L. Marcussen, OBA #19869
Joshua D. Wells, OBA # 22334
FEDERMAN & SHERWOOD
10205 North Pennsylvania Ave.
Oklahoma City, OK 73120
Telephone: (405) 235-1560
Facsimile: (405) 239-2112
Email: wbf@federmanlaw.com
clm@federmanlaw.com
jdw@federmanlaw.com

*Attorneys for Plaintiff
and the Proposed Class*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document, including any and all exhibits, was filed electronically on October 2, 17, with the Court's ECF system, which in turn will automatically serve all counsel of record.

/s/ Carin L. Marcussen